IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.2906 OF 2002
WITH
WRIT PETITION NO.2907 OF 2002

Sukesh Manoharlal Khanna. ...Petitioner.
Vs.
Municipal Corporation for Greater Mumbai & Ors. ...Respondents.
....
Mr. S. I. Memon for the Petitioner.
Mr. K. K. Singhavi, Senior Advocate with Mrs.Meena Doshi and Mrs. V.K. Khatu for Respondent No.1.
.....

CORAM : A.P. SHAH AND
DR.D.Y.CHANDRACHUD, JJ.

July 22, 2005.

ORAL ORDER (PER DR. D.Y. CHANDRACHUD, J.):

The Municipal Corporation has revoked the permission granted to the Petitioner in respect of hoardings situated at Mahim Creek on the ground that the hoardings fall in a CRZ-I area and cannot be permitted on the ground that there is a violation of the notification issued on 19th February 1991 by the Union Government in exercise of powers conferred by the Environment Protection Act, 1986.

2. An Expert Committee was appointed by this Court on 2nd

May 2003 to verify and scrutinize hoardings falling in the Coastal Regulation Zone. The Committee submitted its report in July 2003. The hoardings forming the subject matter of these petitions are at Sr. No.47 and 48 of the report. The Committee has noted thus :

> "Hoarding is in Mahim Creek, some of its supports being in the water. It is located in the inter-tidal zone of the creek and also in a mangrove area of the Mithi river estuary, which has specifically been designated a CRZ-I area in the CZMP for Maharashtra."

Photographs of the hoardings have been annexed to the report of the Committee.

3. The notification issued by the Union Government on 19th February 1991 defines a CRZ-I area as follows :

> "**Category I (CRZ-I)**:
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> -(i) Areas that are ecologically sensitive and important, such as national parks/marine parks, sanctuaries, reserve forests, wildlife habitats, mangroves, corals/coral reefs, areas close to breeding and spawning grounds of fish and other marine life, areas of outstanding natural beauty/historically/heritage areas, areas rich in genetic diversity, areas likely to be inundated due to rise in sea level consequent upon global warming and such other areas as may be declared by the Central Government or the concerned authorities at the State/Union Territory level from time to time.

Area between Low Tide Line and the High Tide Line."

No new construction is permitted within 500 meters of High Tide Line or between the High Tide Line and Low Tide Line.

4. In the present case, the hoardings have been found as a matter of fact to be situated in the Mahim Creek in the inter tidal zone and in the middle of the mangrove area. The Municipal Corporation has concurred with the report of the Expert Committee. The Petitioners have no vested right in the continuance of the hoarding structure. Public interest in the conservation of the environment must prevail. That is in fact the mandate of the notification issued on 19th February 1991 under the Environment Protection Act, 1986. There is, in these circumstances, no merit in these petitions. The petitions are accordingly rejected. However, in order to enable the petitioner to have recourse to his remedies against this judgment and order, there shall be a direction that the hoardings shall not be liable to be removed until 15th October 2005.

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